UNITED STATES PATENT AND TRADEMARK OFFICE

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EXAMINER
KELLEY, STEVEN SHAUN

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>01 April 2010</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *4-6,9,10,17,20,21 and 45-48* is/are pending in the application.

  4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *4-6,9-10,17,20-21, and 45-48* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

  a)☐ All   b)☐ Some * c)☐ None of:

  1.☐ Certified copies of the priority documents have been received.

  2.☐ Certified copies of the priority documents have been received in Application No. _____.

  3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

  * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
  Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
  Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

Claim Rejections - 35 USC § 112

1.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2.   Claims 4-6, 9, 10, 17, 20-21 and 45-48 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claims 45-48, the phrases which relate to an "operating layer *of the phone*" and a "graphical layer *of a phone*" are unclear and/or inaccurate, as mobile phones do not have "layers", although software has "layers". For example, claim 45 could be amended to recite "wherein a software graphical layer in the mobile phone...".

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4.   Claims 6, 9, 10, 17, 20-21 and 45-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Pub. 2004/0014484 to Kawashima (hereinafter "Kawashima") in view of U.S. Patent Pub. 2004/0023646 to Inami et al (hereinafter

"Inami") and either one of U.S. Patent 7,248,677 to Randall et al. (hereinafter "Randall")

or U.S. Patent 7,352,997 to Torvinen (hereinafter "Torvinen").

Regarding new independent claims 45 and 46, Kawashima teaches a method for

downloading ring tones for personalizing mobile phones, comprising: downloading and

storing data on a mobile phone, including audio content and graphical animation content

(see sections [0025] and [0026], which teach downloading ringtones); and upon

receiving an incoming call, simultaneously playing the audio content and displaying the

graphical animation content on the mobile phone (see sections [0070] and [0118] which

teach downloaded content may be "animations", and see sections [0078] to [0090]

which describe Figs. 6-7, which teach setting the ringtone and display information for

incoming calls and the process of reading from RAM memory (51) the ringtones and

display information when a call comes in).

Kawashima does not explicitly teach "wherein a graphical layer of the mobile

phone is disabled in order to display the downloaded graphical animation content", as

recited.

In an analogous art, Inanmi teaches a mobile phone which includes a conflict

determination section 13 which determines (based on a ranked priority) what software

application is actively displayed (see Abstract and Figs. 1-2), when one application is

currently active and another application is activated. Sections [0004] through [0018]

and the processes of Figs. 2, 7, 8 and 10, which teach determining whether "software

application A" or "software application B" is enabled based on the state of the mobile

device and the ranked priorities of the applications. See Figs. 3, 6 and 11, which teach

rankings of applications. Fig. 13 shows and section [0086] teaches that ringtones may

be one of the applications enabled by the mobile phone. See also Fig. 14, which

shows a mobile phone accessing a web browser function when a call comes in. As

explicitly shown in steps S5, S15, S25 and S46 (in Figs. 2, 7, 8 and 10 respectively),

when two software applications are simultaneously enacted/requested it is determined

which "Requesting software has higher priority?" The subsequent step which "Cancels

A (or B's) process" (S7, S17, S27 and S48 in Figs. 2, 7, 8 and 10 respectively), reads

on the recited "graphical layer of the mobile phone is disabled in order to display the

downloaded graphical animation content", as "application A" and "application B" (which

include displayed graphics) are repeatedly referred to as layers and are prioritized

"graphical layers". See also claim 9 of Inami which refers to each application as

"image layers of software". In other words, as each prioritized graphical application in

Inami is a "prioritized layer", the canceled or disabled application in Inami may be

interpreted to be a "disabled graphical layer".

Therefore, as both Kawashima and Inami teach ringtones used in mobile phones,

it would have been obvious to one of ordinary skill in the art to modify Kawashima with

the ability to disable a graphical layer (as taught by Inami), in order to prioritize or re-

prioritize displayed information as desired by an operator, as is conventional.

Although Inanmi's teaches disabling "graphical layers", for completeness, either

one of Randall or Torvinen may be added.

As the written specification teaches (and shows in the Figs.) that the instant invention is used in mobile phones employing the Symbian Operating System, an "operating layer" and "graphical layer" are inherently included in the Symbian OS. The Randall patent (Assigned to Symbian Software Ltd.) which utilizes the Symbian OS (which provides "robust and advanced applications", see column 2) teaches downloading both ringtones and graphics/animations to a mobile phone (see column 9, lines 1-12) which may be used for incoming call processes and the exchange of information between the calling parties. Torvinen also teaches a mobile terminal 202 capable of downloading information, where the mobile terminal is equipped with a "Series 60" software framework used in conjunction with the Symbian OS (see column 6, lines 51-67).

Therefore, as the Symbian OS includes an "operating layer" and a "graphic layer" (and is capable of downloading ringtones and animations and providing the graphic displays and ringtones), it would have been obvious to modify Kawashima (as modified by Inami) with the software layers included in the Symbian OS of Randall or Torvinen, in order to disable graphical layers and store ringtone applications at the "operating layer", in order to customize and/or re-prioritize ringtone and display information, as desired by a user, as is conventional.

Regarding claims 6 and 17, which recite "wherein, with the application for reading the graphical content, a background task application is downloaded in the operating layer of the mobile phone, which monitors the notification of an incoming call to a

phone server of said layer and activates the reading of the graphical content by the reading application", although Kawashima must inherently include a "background application" to monitor for incoming calls (which would be stored in CPU 50 at an "operating layer"), Kawashima does not explicitly teach this feature. As described above in the rejections of claims 45 and 46, both Randall and Torvinen teach using the Sybian OS in mobile phones. Randall also explicitly teaches monitoring for incoming calls and providing information based on the identification of the calling parties (which would be the recited "phone server application") and also teaches that the Symbian OS provides "robust and advanced applications", as described in column 2.

Therefore, as both Randall and Kawashima teach monitoring for incoming calls (which would be performed by a "background application") and the Symbian OS includes an "operating layer", it would have been obvious to store the "background" application of Kawashima in the operating layer, in order to perform ringtone and graphics functions before a call is answered, as is conventional.

Regarding claims 9 and 20, which recite "wherein the reading application bypasses the graphical layers of the phone for writing directly in the screen memory", as described above in the rejection of claims 45 and 46, the combination of the teachings of Kawashima as modified by Inami and Randall/Torvinen, would "bypasses the graphical layers of the phone for writing directly in the screen memory", as recited.

Regarding claims 10 and 21, which recite "wherein the reading application uses a mask for not entering into conflict with certain areas for displaying certain icons", as icons such as "signal strength" and "battery level" are constantly displayed on

conventional mobile phones, although the references do not explicitly teach displaying

these icons, this recited feature would have been an obvious modification to the display

of Kawashima as modified by the "robust applications" of the Symbian OS, as above.

Regarding new independent claims 47 and 48, Kawashima teaches a method for

enabling the substantially synchronous reading of at least an audio content and a

graphical content upon reception of an incoming call on a mobile phone (see),

comprising: a background task application monitoring a notification of an incoming call

to a phone server on a mobile phone; and the background task application activating an

application to read the graphical content (see Figs. 6-7 and the description in sections

[0078] to [0090]).

Kawashima does not explicitly teach that background task application "disables a

graphic layer of the mobile phone upon the notification of an incoming call", as recited.

Additionally, although Kawashima must inherently include a "background application" in

order to monitor for incoming calls (which would be stored in CPU 50 at an "operating

layer") and also must contain a "reading application" to read the personalized content

(so that it may be displayed), Kawashima does not explicitly teach "a background task

application", as recited.

In an analogous art, Inanmi teaches a mobile phone which includes a conflict

determination section 13 which determines (based on a ranked priority) what software

application is actively displayed (see Abstract and Figs. 1-2), when one application is

currently active and another application is activated. Fig. 13 shows and section [0086]

teaches that ringtones may be one of the applications enabled by the mobile phone.

See also Fig. 14, which shows a mobile phone accessing a web browser function when

a call comes in. Sections [0004] through [0018] and the processes of Figs. 2, 7, 8 and

10, which teach determining whether "software application A" or "software application B"

is enabled based on the state of the mobile device and the ranked priorities of the

applications. The resource access section 11 (which receives requests for activation of

applications) is the recited "background task" application, as recited.

As explicitly shown in steps S5, S15, S25 and S46 (in Figs. 2, 7, 8 and 10

respectively), when two software applications are simultaneously enacted/requested it is

determined which "Requesting software has higher priority?" The subsequent step

which "Cancels A (or B's) process" (S7, S17, S27 and S48 in Figs. 2, 7, 8 and 10

respectively), reads on the recited "graphical layer of the mobile phone is disabled in

order to display the downloaded graphical animation content", as "application A" and

"application B" (which include displayed graphics) are repeatedly referred to as layers

and are prioritized "graphical layers". See also claim 9 of Inami which refers to each

application as "image layers of software". In other words, as each prioritized graphical

application in Inami is a "prioritized layer", the canceled or disabled application in Inami

may be interpreted to be a "disabled graphical layer".

Therefore, as both Kawashima and Inami teach ringtones used in mobile phones,

it would have been obvious to one of ordinary skill in the art to modify Kawashima with

the ability to disable a graphical layer (as taught by Inami), in order to prioritize or re-prioritize displayed information as desired by an operator, as is conventional.

Although Inanmi's teaches disabling "graphical layers", for completeness, either one of Randall or Torvinen may be added.

As the written specification teaches (and shows in the Figs.) that the instant invention is used in mobile phones employing the Symbian Operating System, an "operating layer" and "graphical layer" are inherently included in the Symbian OS. The Randall patent (Assigned to Symbian Software Ltd.) which utilizes the Symbian OS (which provides "robust and advanced applications", see column 2) teaches downloading both ringtones and graphics/animations to a mobile phone (see column 9, lines 1-12) which may be used for incoming call processes and the exchange of information between the calling parties. Torvinen also teaches a mobile terminal 202 capable of downloading information, where the mobile terminal is equipped with a "Series 60" software framework used in conjunction with the Symbian OS (see column 6, lines 51-67).

Therefore, as the Symbian OS includes an "operating layer" and a "graphic layer" (and is capable of downloading ringtones and animations and providing the graphic displays and ringtones), it would have been obvious to modify Kawashima (as modified by Inami) with the software layers included in the Symbian OS of Randall or Torvinen, in order to disable graphical layers and store ringtone applications at the "operating layer", in order to customize and/or re-prioritize ringtone and display information, as desired by a user, as is conventional.

5.   Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over

Kawashima, Inami, and either one of Randall or Torvinen, as applied to claim 45 above,

and further in view of U.S. Patent Pub. 2003/0109252 to Prentice et al. (hereinafter

"Prentice").

        Regarding claim 4, which recites "wherein at each new downloading, the

downloaded data comprises an application for reading the graphical animations

content and/or audio content", Kawashima, Inami, and either one of Randall or

Torvinen do not explicitly teach this feature, as recited.

        In an analogous art, Prentice teaches downloading information to a mobile

phone, where the simultaneously downloaded information includes a codec program

which is used to read the downloaded data. See for example, section [0026], which

teaches "codec executable field 136, which includes an executable coding/decoding

file that can be in many formats". See also section [0003] which mentions conventional

audio and video codecs.

        Therefore, as both Kawashima and Prentice teach downloading information to

mobile phones, it would have been obvious to one of ordinary skill in the art to modify

Kawashima with the ability to simultaneously download a codec program (as taught by

Prentice), in order to read and process downloaded information, as is conventional, as

different types of downloaded data may require different types of codec programs.

6.   Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over

Kawashima, Inami, Prentice and either one of Randall or Torvinen, as applied to claim 4

above, and further in view of U.S. Patent 7,139,551 to Jamadagni (hereinafter

"Jamadagni").

        Regarding claim 5, which recites "wherein the downloaded data also comprises

one or more configuration files", Jamadagni teaches downloading software components

to a mobile terminal. Jamadagni teaches in column 12, lines 13-15, that configuration

files are stored in "download cache 20" within the mobile phone. Therefore, as

Jamadagni teaches the conventionality of downloading and storing configuration files, it

would have been obvious to one of ordinary skill to modify Kawashima (as modified

above) with this ability, in order to configure devices based on other downloaded

software applications (such as ringtones etc.), as is conventional.

Response to Arguments

7.   Applicant's arguments with respect to the claims have been considered but are

moot in view of the new ground(s) of rejection. The newly recited feature (as found in

independent claims 45-48), which relates to "disabling a graphical layer", is addressed

with the newly applied Inami reference.

Conclusion

8.   Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to STEVEN KELLEY whose telephone number is (571) 272-5652. The examiner can normally be reached on Monday-Friday, 9AM to 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Lester Kincaid can be reached on (571) 272-7922. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/SSK/

/LESTER KINCAID/

Supervisory Patent Examiner, Art Unit 2617